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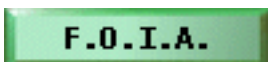
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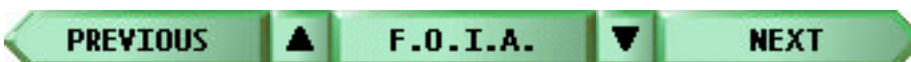


Go to next pdf file



Return to Freedom of Information Act Page

Note: Any typos found in this document are transposition errors due to retyping and not necessarily an error in the original document.



FOIA HINTS

Posted by Charles (mcgrewklinzhai.rutgers.edu)

Taken From:

Lawrence Fawcett and Barry Greenwood's "Clear Intent" (Prentiss-Hall, 1984).

An outline of what the authors suggest as the best way to seek federal agency records via the FOIA:

- 1) "Determine first which agency has the records" - if you aren't sure which it is, check the "United States Government Manual" (available from the Office of the Federal Register, Nat'l Archives and Records Admin., National Referral Center, Library of Congress, Washington DC. The article gives the phone number as 202-287-5670, but I can't vouch for it, and I also don't know what it might cost.) If in doubt, contact each potentially relevant agency, and speak/correspond with the "Freedom of Information Officer". The FIO will tell you if his/her agency has the records, and if not, what agency does.

- 2) "Write to the FIO". (Keep copies of everything, with dates)
- 3) "Make your request pursuant to the FIOA", e.g. include the following: "I am writing to request agency records pursuant to the Freedom of Information Act, 5 U.S.C 552."
- 4) "Arrange to pay the agency for search and copy fees." The agency is allowed to do this, so be prepared to spend the money. Ask the agency what it charges for search and copy of requested records. In your letter, tell the agency that you are willing to pay all fees, or will pay all fees up to a certain amount in complying with your request. For instance, "I agree to pay search and copying fees required to satisfy this request up to \$35. If you anticipate the total fees will exceed \$35, please expend \$35 to retrieve those records which are most responsive and readily available, and advise me as to the amount of any additional fees necessary to comply with this request."
- 5) "Describe precisely which records you want" - describe the records you are after as specifically as possible - such as subject matter, relevant dates (or periods), authors, recipients, etc. The more specific you get, the more likely it is that they'll find what you're after promptly (and cheaply, for you.)
- 6) "Use 'and' and 'or'". Ask for all records that concern "inquiry number 1" or "inquiry number 2", or that have to do with both "1" and "2"—this will lessen the chances of the agency playing grammatical games with you.
- 7) "Ask for 'disclosure of all reasonably segregable portions of records which are in whole or in part except from disclosure'". That is, you are instructing the agency to send you portions of documents that are disclosable, even if another portion of the document is exempt from disclosure laws. This "reasonably segregable" part is part of the law, and accounts for documents you may have seen with parts blacked-out—the blacked-out parts were exempt.
- 8) "Tell the agency you expect a written reply within the statutory time limits of the FOIA". The agency must make a written "determination" within 10 days of receipt of your request (so you may wish to send your requests as registered mail, to nail down the date). In unusual circumstances the agency may take an additional 10 days—these 'days' do not include Saturdays, Sundays, or holidays, i.e. "working days". The agency gets 20 days for determination of appeals (see below), with an additional 10 days allowed for "unusual circumstances".
- 9) "If the agency does not answer your request on time, appeal immediately." Find out from the agency to whom you should appeal. Appeal in writing, and include copies of all relevant correspondence (your request, their response - if any, etc.)

- 10) “If the agency denies your request on merits, appeal immediately.” That is, the agency may claim that the documents you seek are exempt from disclosure, and you will have to appeal that claim to whomever handles appeals for that agency.
- 11) “If the agency denies your appeal you can sue.” Consult legal counsel before doing so, and listen to what they say about your chances. Note that suing the government can be very expensive. FOIA cases are heard in Federal District court (according to the article, the courts give “some priority” to FOIA cases). If you win, the court may award you lawyer’s fees and court costs. “Do not let mere claims by the agency that the records you seek are exempt deter you. Federal courts interpret narrowly the FOIA’s exemptions, in favor of disclosure and against secrecy.”



PREVIOUS



F.O.I.A.



NEXT